REMARKS[1]

In the outstanding Office Action, the Examiner rejected claims 1-15 under 35 U.S.C.

§ 102(b) as being anticipated by U.S. Patent No. 6,169,700 to Luo et al. ("Luo"). No claims are

amended herein, and claims 1-15 remain pending in this application.

Applicants respectfully traverse the Examiner's rejection of claims 1-15 under 35 U.S.C.

§ 102(b). In order to properly anticipate Applicants' claimed invention under 35 U.S.C. § 102,

each and every element of the claim in issue must be found, "either expressly or inherently

described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814

F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Moreover, "[t]he identical invention

must be shown in as complete detail as is contained in the . . . claim. *Richardson v. Suzuki*

Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)." *See* MPEP § 2131,

8th Ed. (Rev. 5), August 2006. Luo cannot anticipate claims 1-15 because that reference fails to

disclose each and every element recited in claims 1-15.

For example, claim 1 recites a memory system including a "collision detect circuit

[which] sets a collision flag ... the collision flag providing an indication that any of the at least

two ports may have read or written corrupted data." Luo fails to disclose at least this element.

The Examiner asserts that Luo discloses this element stating:

> Luo teaches this limitation, e.g. in column 4, lines 50-56, "If the
> two simultaneous addresses indicate a collision would occur in an
> access to the same address location, a same location signal
> SAME_LOC is activated, e.g., goes to a logic HIGH states for the
> duration of the collision of address signal. Other wise, the same
> location signal SAME_LOC remains inactive, e.g., at a logic LOW
> state." Office Action, page 3 (emphasis in original).

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[1] The Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of
whether any such statement is identified herein, Applicants decline to automatically subscribe to any statement of
characterization in the Office Action.

However, the cited portion of <u>Luo</u> is silent as to "providing an indication that any of the at least two ports may have read or written corrupted data," as recited in claim 1.

In fact, <u>Luo</u> provides no such teaching. <u>Luo</u> disclosure:

> dual port memory 100 importantly includes an asynchronous, simultaneous access wait state generator module 110 to handle the particular situation when both address decoders 102, 104 happen to be accessing the memory element at precisely the same time. In such a case, a wait signal ... is generated by the asynchronous simultaneous wait state generator module 110 to cause one of the simultaneously, asynchronously accessing processors <u>to halt clocking of its port, or wait</u>, until release by the asynchronous wait state generator module 110 (col. 4, lines 30-40, emphasis added),

and

> [t]he wait state generator 123 is activated by an activation of the same location SAME_LOC signal generated by the simultaneous access determination module 120 (col. 5, lines 55-57).

<u>Luo</u> thus discloses generating the same location signal SAME_LOC when more than one port is attempting to simultaneously access a memory element, the same location signal SAME_LOC in turn activating a wait state generator 110, *which merely causes one of the ports to stop and wait.* <u>Luo</u> does not teach that SAME_LOC, or any other signal, "provid[es] an indication that any of the at least two ports may have read or written corrupted data," as recited in claim 1.

Despite <u>Luo</u>'s clear failure to provide the disclosure of the element "providing an indication that any of the at least two ports may have read or written corrupted data," as recited in claim 1, the Examiner appears to attempt to cure this deficiency of <u>Luo</u> by asserting that this element is merely an intended use. *See, e.g.,* Office Action, page 11. However, the Examiner has misapplied the concept of intended use, and thus incorrectly identified Applicants' claimed element as such.

An intended use is typically a "for" statement, which states a use for an apparatus. For example, if a claim recited "a widget for use in a vehicle," the "for use in a vehicle" is the intended use of the widget. MPEP § 2114 states "[a] claim containing a 'recitation with respect to the manner in which a claimed <u>apparatus</u> is intended to be employed does not differentiate the claimed apparatus from a prior art <u>apparatus</u>' if the prior art <u>apparatus</u> teaches all the structural limitations of the claim." MPEP § 2114, 8th Ed. (Rev. 5), August 2006 (quoting *Ex parte Masham*, 2 USPQ2d 1647 (Bd. Pat. App. & Inter. 1987), emphasis added). That is, the MPEP states that if the prior art apparatus teaches all the structural elements recited in a claim, a mere intended use will not make the claim patentable. So, if the claimed "widget" referred to above was found in a prior art reference used in something other than a vehicle, the mere addition of "for use in a vehicle" would not be sufficient to make the claim patentable over the prior art widget. Not only do Applicants submit that this concept of intended use, as described in precedent and the MPEP, only applies to structural elements found in <u>apparatus claims</u> (rejected claims 1-15 are method or system claims), but also that Applicants' recitation of "providing an indication that any of the at least two ports may have read or written corrupted data," as recited in claim 1, does not constitute a "manner in which a claimed apparatus is intended to be employed," as discussed below.

In the claimed invention, a "collision flag" is generated, which identifies at least two phenomena in the claimed memory system. That is, the claimed "collision flag" identifies "a collision condition," and "an indication that any of the at least two ports may have read or written corrupted data," as recited in claim 1, for example. These are specific limitations of the claimed "collision flag," identifying properties of the claimed "collision flag," and are thus more than just an intended use, as asserted by the Examiner. Accordingly, identifying a "collision

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condition," and providing "an indication that any of the at least two ports may have read or written corrupted data," as recited in claim 1, constitute properties of the claimed "collision flag," and thus impart specific distinguishable limitations on the claimed "collision flag," and on claim 1.

In fact, following the Examiner's rationale in asserting that the element of claim 1 missing from Luo is merely an intended use, if the claimed element "the collision flag providing an indication that any of the at least two ports may have read or written corrupted data," as recited in claim 1 constitutes an intended use, all elements except the claimed "a memory array," "at least two ports," and "a collision detect circuit," would also be considered mere intended uses. However, this is not the case with these other elements of claim 1, nor with the element clearly missing from Luo, as they all impart specific tangible limitations on other elements in the claim. Therefore, "the collision flag providing an indication that any of the at least two ports may have read or written corrupted data," as recited in claim 1 should be given the proper patentable weight.

In further attempting to cure the deficiencies of Luo and maintain the anticipation rejection, the Examiner also asserts that Luo anticipates at least claim 1 for the additional reason that Luo could also "be intended to accomplish the same limitation." Office Action, page 11. Applicants again note that in order to anticipate a claim, the prior art reference must disclose each and every element recited in the claim. MPEP § 2131, 8th Ed. (Rev. 5), August 2006. As discussed above, Luo is silent as to "providing an indication that any of the at least two ports may have read or written corrupted data," as recited in claim 1. Even if the Examiner's assertion could be correct that the SAME_LOC signal of Luo could also be modified to include additional information, such as information concerning whether or not corrupted data had been read or

written, there is no teaching or suggestion in Luo, the only reference cited by the Examiner in this § 102 rejection, to do so.

Accordingly, for at least the foregoing reasons, Applicants have demonstrated that Luo fails to disclose each and every element recited in claim 1. Luo thus cannot anticipate claim 1. Accordingly, claim 1 is allowable over Luo, and claims 2-7 are allowable at least due to their dependence from claim 1.

Amended claims 8, 11, and 14, although of different scope, recite elements similar to those recited in claim 1. That is claims 8, 11, and 14 also recite combinations including "[a] collision flag providing an indication that [at least one port] may have read or written corrupted data," and are allowable over Luo for at least the same reasons given above with respect to claim 1.

Moreover, claims 9 and 10 depend from claim 8, claims 12 and 13 depend from claim 11, and claim 15 depends from claim 14. Thus, claims 9 and 10, claims 12 and 13, and claim 15 respectively require all of the elements recited in claims 8, 11, and 14 and are allowable at least due to their respective dependence from claims 8, 11, and 14. Applicants therefore respectfully request that the Examiner withdraw the rejection of claims 1-15 under 35 U.S.C. § 102(b).

This Request for Reconsideration does not include any claim amendment, and thus does not raise any new issues requiring a new search. Entry of this Request for Reconsideration and a timely allowance of the pending claims is earnestly requested.
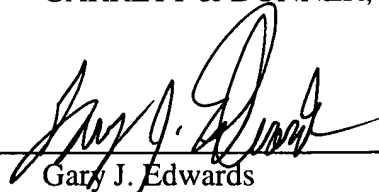
Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, L.L.P.

Dated: March 20, 2007

By: _____
Gary J. Edwards
Reg. No. 41,008

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